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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/575,088	05/19/2000	Daniel J. Guinan	NAN00-001	9765

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EXAMINER

WASYLCHAK, STEVEN R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/575,088

**Applicant(s)**

GUINAN, DANIEL J.

**Examiner**

Steven R. Wasylchak

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/7/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 43-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 43-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. Claims 43-60 are pending. This action is in response to Applicant's response received on Jan. 1, 2005. In view of the new art presented, Taylor (US 6,292,830), Applicant's arguments are moot.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 43-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman (5,826,244) and further in view of Taylor et al. US (6,292,830).

#### **CLAIMS:**

43. (New) A method for transacting multi-party electronic commerce over a network, comprising:

creating a plurality of atomic offers associated with a plurality of suppliers;/col 9, L 55-

66; **col 7, L 3-15**

creating a plurality of hierarchical offers based on the plurality of atomic offers, the

plurality of hierarchical offers including:

at least one first-level offer including at least one of the plurality of atomic offers,/col 3, L

1-14; col 9, L 55 – 66; col 10, L 36-61; **col 7, L 3-15**

Huberman discloses at least one second-level offer including the first-level offer/col 3,L

1-14; col 10, L 35-61; **col 10, L 42-47**. However, Huberman does not disclose at least

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one of the plurality of atomic offers not included within the first-level offer.

Official notice is taken that this feature of at least one of the plurality of atomic offers not included within the first-level offer is old and well known in the auction art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement this feature of at least one of the plurality of atomic offers not included within the first-level offer for the advantage of lowering the average cost of the product by including at least one first-level offer.

creating at least one counter offer associated with a consumer;/ col 4, L 4-44; col 11, L 11-15; col 9, L 55-66

storing the plurality of atomic offers, the plurality of hierarchical offers and the counter offer in a memory;/fig 1(101)

Huberman does not explicitly teach matching the counter offer to one of the plurality of hierarchical offers to create a zero sum offer; and closing the zero-sum offer. However, Taylor et al. teaches matching the counter offer to one of the plurality of hierarchical offers to create a zero sum offer; and closing the zero-sum offer (title: multiple levels is hierarchical; col 71, L 25-31; col 78, L 26-35 (hierarchical); col 102, L 15-35:

hierarchical is multi-modal). It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of efficiency by closing out transactions.

44. (New) The method of claim 43, wherein:

each of the plurality of atomic offers include an atomic offer description and an atomic offer price;/ col 3, L 1-14; col 9, L 55-66; **col 7, L 34-65: description as document service**

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each first-level offer includes: a first-level fee,/ broker process: abstract; fig 4b- BBB;  
col 3, L 1-14; col 9, L 55 - 66

a first-level description based on each of the included atomic offer descriptions,/ col 10,  
L 36-61; **col 3, L 6-10(information as description)**

a first-level price based on the first-level fee and each of the included atomic offer  
prices;/ abstract; col 10, L 36-61

each second-level offer includes:

a second-level fee,/ fig 4b- BBB; col 10, L 36-61

a second-level description based on the first-level description and each of the included  
atomic offer descriptions, and a second-level price based on the second-level fee, the  
first-level price, and each of the included atomic offer prices;/ fig 4b- BBB; col 7, L 1-15,  
56-65; col 10, L 36-61; **col 4, L 7-18**

the counter offer includes a counter offer description and a counter offer price; and/col  
7, L 33-44

said matching the counter offer includes comparing the counter offer description and  
price to each first-level and second-level description and price, respectively, to  
determine a match./col 7, L 3-65, 33-65 (mix levels); col 10, L 36-61; **fig 2**

45. (New) The method of claim 44, wherein the zero-sum offer includes an atomic offer  
corresponding to each of the atomic offers included within the first-level and second-  
level offers. However, Taylor et al. discloses the zero-sum offer includes an atomic  
offer corresponding to each of the atomic offers included within the first-level  
and second-level offers / title: multiple levels is hierarchical; col 71, L 25-31; col 102, L

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15-35: hierarchical is multi-modal. It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of efficiency by closing out transactions.

46. (New) Huberman does not explicitly teach determining whether each atomic offer included within the zero-sum offer is expired, invalid or unavailable; and if so determined, not closing the zero-sum offer. However, Taylor et al. teaches determining whether each atomic offer included within the zero-sum offer is expired, invalid or unavailable; and if so determined, not closing the zero-sum offer/ title: multiple levels is hierarchical; col 71, L 25-31; col 102, L 15-35: hierarchical is multi-modal. It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of efficiency by closing out transactions.

47. (New) Huberman does not explicitly teach closing the zero-sum offer includes closing each atomic offer included within corresponding first-level and second-level offers. However, Taylor et al. teaches closing the zero-sum offer includes closing each atomic offer included within corresponding first-level and second-level offers (title: multiple levels is hierarchical; col 71, L 25-31; col 102, L 15-35: hierarchical is multi-modal). It would have been obvious to one of ordinary skill in the art to use this limitation for the advantage of efficiency by closing out transactions.

48. (New) The method of claim 47, wherein said closing each atomic offer includes: sending a payment based on the atomic offer price from the consumer to the supplier associated with the atomic offer; and/col 14, L 31-46  
at least one of:

shipping a product associated with the atomic offer to the consumer, and

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providing a service associated with the atomic offer to the consumer./col 5, L 23-32

49. (New) A computer readable medium including instructions adapted to be executed by a processor to perform a method for transacting multi-party electronic commerce over a network, the method comprising:

creating a plurality of atomic offers associated with a plurality of suppliers;

creating a plurality of hierarchical offers based on the plurality of atomic offers, the plurality of hierarchical offers including:

at least one first-level offer including at least one of the plurality of atomic offers,/  
and

at least one second-level offer including the first-level offer and at least one of the plurality of atomic offers not included within the first-level offer; /

creating at least one counter offer associated with a consumer; /

storing the plurality of atomic offers, the plurality of hierarchical offers and the counter offer in a memory; /

matching the counter offer to one of the plurality of hierarchical offers to create a zero sum offer; and /

closing the zero-sum offer. / **refer all the above to claim 43**

50. (New) The computer readable medium of claim 49, wherein:

each of the plurality of atomic offers include an atomic offer description and an atomic offer price;

each first-level offer includes: a first-level fee,

a first-level description based on each of the included atomic offer descriptions,

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and

a first-level price based on the first-level fee and each of the included atomic offer prices;

each second-level offer includes:

a second-level fee, /

a second-level description based on the first-level description and each of the included atomic offer descriptions, and

a second-level price based on the second-level fee, the first-level price, and each of the included atomic offer prices; ./

the counter offer includes a counter offer description and a counter offer price; and /

said matching the counter offer includes comparing the counter offer description and price to each first-level and second-level description and price, respectively, to

determine a match. / **all the above refer to claim 44**

51. (New) The computer readable medium of claim 50, wherein the zero-sum offer includes an atomic offer corresponding to each of the atomic offers included within the first level and second-level offers. / **refer to claim 45**

52. (New) The computer readable medium of claim 51, further comprising:

determining whether each atomic offer included within the zero-sum offer is expired, invalid or unavailable; and

if so determined, not closing the zero-sum offer. / **refer to claim 46**

53. (New) The computer readable medium of claim 51, wherein said closing the zero sum offer includes closing each



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atomic offer included within corresponding first-level and second-level offers./ **refer to claim 47**

54. (New) The computer readable medium of claim 53, wherein said closing each atomic offer includes:

sending a payment based on the atomic offer price from the consumer to the supplier associated with the atomic offer; and

at least one of:

shipping a product associated with the atomic offer to the consumer, and providing a service associated with the atomic offer to the consumer./ **refer to claim 48**

55. (New) A system for transacting multi-party electronic commerce over a network, comprising:

an offer processing server, having a memory and coupled to a network, adapted to:

create a plurality of atomic offers associated with a plurality of suppliers,

create a plurality of hierarchical offers based on the plurality of atomic offers, the

plurality of hierarchical offers including:

at least one first-level offer including at least one of the plurality of atomic offers, and

at least one second-level offer including the first-level offer and at least one of the

plurality of atomic offers not included within the first level offer,

create at least one counter offer associated with a consumer,

store the plurality of atomic offers, the plurality of hierarchical offers and the counter offer in the memory,

match the counter offer to one of the plurality of hierarchical offers to create a zero-sum offer, and

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close the zero-sum offer;

a payment server, coupled to the network, to exchange payments between the consumer and the plurality of suppliers; and

a fulfillment server, coupled to the network, to exchange messages associated with the zero-sum offer between the consumer and the plurality of suppliers./ refer to claim 49

56. (New) The system of claim 55, wherein:

each of the plurality of atomic offers include an atomic offer description and an atomic offer price;

each first-level offer includes: a first-level fee,/

a first-level description based on each of the included atomic offer descriptions,  
and

a first-level price based on the first-level fee and each of the included atomic offer prices;

each second-level offer includes:

a second-level fee,/

a second-level description based on the first-level description and each of the included atomic offer descriptions, and

a second-level price based on the second-level fee, the first-level price, and each of the included atomic offer prices; /

the counter offer includes a counter offer description and a counter offer price; and

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said match the counter offer includes to compare the counter offer description and price to each first-level and second-level description and price, respectively, to determine a match./ **refer to claim 50**

57. (New) The system of claim 56, wherein the zero-sum offer includes an atomic offer corresponding to each of the atomic offers included within the first-level and second-level offers./ **refer to claim 51**

58. (New) The system of claim 57, wherein the offer processing server is further adapted to:

determine whether each atomic offer included within the zero-sum offer is expired, invalid or unavailable; and

if so determined, not close the zero-sum offer./ **refer to claim 52**

59. (New) The system of claim 57, wherein said close the zero-sum offer includes to close each atomic offer included within corresponding first-level and second-level offers./ **refer to claim 53**

60. (New) The system of claim 59, wherein said close each atomic offer includes to:

send a payment based on the atomic offer price from the consumer to the supplier associated with the atomic offer; and

at least one of:

ship a product associated with the atomic offer to the consumer, and provide a service associated with the atomic offer to the consumer./ **refer claim 48**

**Art cited in Notice of References Cited is deemed very pertinent to Applicant's claims.**

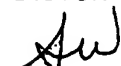
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This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak



3/12/05



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